

26 September 2004
NGO/Scientist Right Whale/Ship Strike Reduction
Focused Group Discussion Meeting
Silver Spring, MD

NOAA/NMFS Presenters: Greg Silber, Pat Gerrior and Barb Zoodsma

NOAA/NMFS Observers: Kristen Koyama, Lindy Johnson, Karl Gleaves, Pam Lawrence, Angela Somma, Patrick Opay, Donna Weiting

Participants:

Cathy Schaeff	American University
Sierra Weaver	The Ocean Conservancy
Brenda Roberts	The Ocean Conservancy
Josh Pike	International Fund for Animal Welfare
Andrew Hawley	Defenders of Wildlife
Joe Wilson	U.S. Army Corps of Engineers
David Laurent Giles	Thornycroft, Giles & Co., Inc.

Presentations:

- Greg Silber presented overview of ship strike strategy
- Pat Gerrior presented detail on Northeast U.S. operational measures.
- Barb Zoodsma presented detail on MidAtlantic and Southeast U.S. operational measures. Of note is that the SE US SMA illustration in the ANPR was inaccurate (although the description within the text of the ANPR was accurate). An accurate illustration was included in the presentation.

Presentations and additional background information are posted on the following websites:

<http://www.nmfs.noaa.gov/pr/> (scroll down to “Ship Strike Strategy”)

<http://www.nero.noaa.gov/shipstrike/>

Group Discussion:

An ACOE representative was concerned about privately owned dredges under contract for dredging operations in SE. Would the ANPR pre-empt the existing BO that covers these vessels? NOAA/NMFS considers this to be a federal activity covered under the Section 7 consultation process. NOAA/NMFS is going to review all federal activities to see if any further consultations need to be conducted or if previous consultations need to be updated. The ACOE representative offered to provide a sentence for the ANPR to clarify their situation.

The question was asked if all of the strategy would wait until the completion of the PARS? Or will parts of the strategy be implemented prior to the completion of PARS? NOAA/NMFS are now implementing parts of the strategy, e.g., the letter of agreement with the ACOE for the Cape Cod Canal and some of the outreach and education and research items. We would prefer that the operational measures be addressed at the same time, but cannot rule out that some measures may be addressed before others.

A question was asked about whether NOAA/NMFS considered using the Marine Studies Board of the National Academy of Sciences to review the ship strike reduction strategy. NOAA/NMFS responded that such a review is a very lengthy and expensive process.

The question was asked if NOAA is consulting with itself. NOAA/NMFS responded that they are consulting with NOAA Corps. *[Editorial comment: Section 7 consultation will be conducted on the ship strike reduction strategy once a proposed action is identified.]*

One participant asked if the ANPR was expected to cover the entire geographic scope of the east coast; and that the Cape Canaveral area was excluded. NOAA/NMFS responded that the proposed rule extended from Maine to south of Jacksonville, Florida.

There was a brief discussion regarding the law enforcement related issues:

1. What is the statutory authority under which NOAA/NMFS is working?
 - a. *[Editorial comment: NOAA/NMFS intends to implement this strategy under its broad rulemaking authority under the ESA.]*
2. How will the strategy be enforced?
 - a. NOAA/NMFS indicated that enforcement would probably fall to the USCG's authority to enforce laws at port entry, but enforcement issues are still being resolved.
3. Has NOAA/NMFS considered a joint rulemaking with CG?
 - a. NOAA/NMFS responded that the CG is involved in the process
4. Does NOAA have authority over foreign flagged vessels?
 - a. All vessels would be subject to regulations as a matter of port entry.

One participant suggested that all ships' masters should be required to report in all large whale sightings. There was much discussion and response from NOAA/NMFS on this, including anecdotal accounts demonstrating how difficult it is to verify sightings, but in summary: too resource intensive to validate reports or implement a systematic sighting program.

A comment was made regarding the need to determine how to address large, private marinas with large vessels and numerous smaller vessels. For example, a project in Georgia involves a large number of privately owned vessels and there is a need to address the impact of these vessels on the calving area and whales that occupy it. NOAA/NMFS is aware of proposed marina construction projects, and engages in ESA Section 7 consultations on these.

The question was asked whether there was any evidence that ship strikes are related to the speed of ships? Hull type is very important, protruding vessel parts such as the bulbous bow and stabilizers are most dangerous for striking objects. Modeling studies indicate that a high-speed hull traveling fast probably pushes things away near the bow, but creates suction amidships; while a hull designed for low speeds traveling fast may create suction.

One participant asked whether an Environmental Impact Statement or Environmental (EA) Assessment was being prepared under requirements of the National Environmental Policy Act. This individual felt strongly that an EIS was warranted. NOAA/NMFS indicated that, at the time, an EA was being prepared.